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C.R.P.No.141 of 2023

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 07.06.2024

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THE HON'BLE MR.JUSTICE V. LAKSHMINARAYANAN

C.R.P.No.141 of 2023
and C.M.P.No.1177 of 2023

Arulanandham

... Petitioner

-Vs-

1.The Deputy Registrar of Co-operative Societies
Salem Circle, Salem.

2.The President / Special Officer
S411, Sooramangalam Primary Agricultural
Cooperative Bank Limited, Sooramangalam
Salem-636 005.

3.M.Arjunan

4.R.Selvaraj

5.K.C.Sundaram

... Respondents

Prayer : Civil Revision Petition under Article 227 of the Constitution of India to set aside the order passed by the 1st respondent in CMA (CS) No.10 of 2010 dated 25.02.2019 and to quash the surcharge order passed by the 2nd respondent in Na.Ka.No.5016/2007 Sa.Pa dated 11.10.2007.

For Petitioner : Mr.D.Baskar

For Respondents : Mr.R.Siddharth, Government Advocate-for R1
Dr.S.Suriya, Addl.Government Pleader - for R2
Mr.C.Prakasam - for R4
Mrs.N.Karpagalakshmi - for R5
R3 - Served, no appearance



C.R.P.No.141 of 2023

ORDER

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This civil revision petition challenges the order passed by the learned Principal District Judge at Salem in CMA(CS) No.10 of 2010 dated 25.02.2019 in upholding the surcharge order passed by the Joint Registrar of Salem District Primary Agricultural Cooperative Societies, Salem Region, in Na.Ka. No.5050/2007/Sa.Pa/ dated 11.10.2010.

2. The petitioner and the fourth respondent were in control of the affairs of S411, Sooramangalam Primary Agricultural Cooperative Bank Limited situated at Sooramangalam, Salem. Finding that certain irregularities had taken place in the cooperative society, the Registrar had directed initiation of proceedings under Section 81 of the Tamil Nadu Cooperative Societies Act. 1983. The enquiry officer conducted an enquiry and submitted a report in terms of Section 81. As per the report, he found that there had been a misappropriation to the extent of Rs.17,00,684/-. He found 11 persons were responsible for the loss suffered by the society. Apart from these 11 persons, 8 other persons had been charged, who the enquiry officer did not find responsible and therefore exonerated them. As per the report under Section 81, he fixed the responsibility on the civil revision petitioner Arulanandham, who was originally appointed as a clerk, and later promoted to cashier, and during the relevant time was working as Manager, and one Selvaraj and Arjunan who were the cashiers of the Cooperative Society.



C.R.P.No.141 of 2023

3. The stand of Arulanandham who was the manager was that he had relied upon Selvaraj and Arjunan for the performance of duty and it is those persons who had misappropriated the amounts. Curiously enough, the two cashiers viz., Selvaraj and Arjunan would plead that the manager Arulanandham will give them some work and ask them to go away from the bank and taking advantage of their absence, he used it to disburse the amounts. In other words, the civil revision petitioner shifted the blame onto the cashiers and the cashiers shifted the blame onto the civil revision petitioner.

4. Be that as it may. Pursuant to the report that had been submitted under Section 81, Surcharge proceedings were initiated under Section 87 of the Tamil Nadu Cooperative Societies Act. Sufficient opportunity was granted to the petitioner, Arjunan and Selvaraj and it resulted in passing of an award by the Registrar/ second respondent in Award No.1192/2006-07. Challenging the award, a statutory appeal was preferred before the Cooperative Tribunal-cum-District Judge at Salem wherein the Tribunal upheld the award passed by the second respondent.

5. As the proceedings were common, the following CMAs in CMA(CS) Nos.17/2007, 1/2008, 2/2008 and 10/2008 were heard together.

6. Two fold argument was placed before me. The first argument being that the report under Section 81 of the Tamil Nadu Cooperative Societies Act had not



C.R.P.No.141 of 2023

been served on the petitioner and therefore there is a violation of principles of natural justice. This argument does not stand a moment's scrutiny for the simple reason that a report under Section 81 is only a fact-finding report for the purpose of satisfying the registrar. It is for the internal consumption of the registrar and a report under Section 81 itself is not final nor does it have civil consequence on the parties. As stated supra, all that the authority does is to go through the records of the Society, hear the persons who are alleged to have committed the misdemeanors and thereafter submit his fact-finding report to the Registrar. The non-issuance of the report does not vitiate the petitioner and it does not have any civil consequence. Therefore, the first argument stands rejected.

7. With respect to the loss of the amounts that had occurred to the Society, it is on record that Arulanandham, Selvaraj and Arjunan used to collect the amounts directly from the subscribers/members of the bank, but they did not deposit the amount to the credit of the Society. In other words, they received the amounts and pocketed the same with themselves depriving the society of its rightful income.

8. A perusal of the award as well as the proceedings of the appellate authority would show that the finding is that Selvaraj, Arulanandham, and Arjunan had tampered with the records of the Society. In fact, as the Manager of the Society, Arulanandham and Selvaraj had signed the jewel return register and it was on account of this fact, the second respondent came to a conclusion that without



C.R.P.No.141 of 2023

their knowledge there is no way that the jewels which had been pledged with the Society could have been returned. The Society had suffered loss because the amounts that had been paid by the persons who had taken back their jewels had not been deposited with the Society and in some cases, jewels had been returned without even receipt of the amounts. These factual findings have been gone into in detail by the appellate authority and only thereafter he had come to the conclusion that Selvaraj, Arulanandham and Arjunan are responsible for the losses caused. Further more, the civil revision petitioner Arulanandham had executed a notarised document dated 21.12.2006 stating he was the person who was responsible for causing loss to the Society.

9. In fact, Mr.C.Prakasam learned counsel for the fourth respondent herein had relied upon this document to say all misdemeanors had occurred only on account of the civil revision petitioner and as a subordinate officer viz., being a cashier, he is not responsible for the same. This submission and other submissions had been considered by me in C.R.P.No.2938 of 2022 viz., the civil revision petition which has been preferred by R.Selvaraj, the cashier. I had rejected those arguments on 08.04.2024. It is the very same common award which is sought to be assailed in the present revision. I have gone through the original award passed by the second respondent as well as the order passed by the Cooperative Tribunal. I do not find any illegality or irregularity or perverse appreciation of facts or evidence by the trial authority as well as by the appellate authority.



C.R.P.No.141 of 2023

WEB COPY

9. Arulanandham was the manager who was responsible for the day-to-day activities of the S411, Sooramangalam Primary Agricultural Cooperative Bank Limited. Jewels had been taken away from the custody of the bank without the amounts, which had been given as loan, being returned. Some of the amounts have been received but the transactions had not been accounted for by the Manager or by the Cashier.

10. In the light of above, I do not find any illegality or irregularity in the orders passed by the Courts below and hence the Civil Revision Petition stands dismissed. No costs. Consequently, connected miscellaneous petition is also dismissed.

07.06.2024

Index : Yes/No

Neutral Citation : Yes/No

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C.R.P.No.141 of 2023

V. LAKSHMINARAYANAN, J.

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C.R.P. No.141 of 2023

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